

INDEX - SHEET

CAUSE TITLE TA. 923/87 (P) OF 198

Name of the Parties R. P. Pathak

Versus

Union of Indig

Part A, 2 and 3

Sl. No.	DESCRIPTION OF DOCUMENTS	PAGE
A-1	General Index	1 ✓
A-2	order sheet	3 ✓
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A-7	Supplementary affidavit	3 ✓
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C-1	affidavit on notices	

① C.A. Part No. 2 ②

Certified that no further action is required to take and that the case is fit for
being returned to the record room.

checked

B/Cohit nojed on 09-5-12.

Recheck
on 07/02/12

30-12-2011
Sob

CIVIL _____
CRIMINAL _____
SIDE

GENERAL INDEX

(Chapter XLI, Rules 2, 9 and 15)

Nature and number of case *W.P. 2714-81*

Name of parties *Ram Pherau Bakkab K. Union of India*

Date of institution *1-6-81*

Date of decision

File no.	Serial no. of paper	Description of paper	Number of sheets	Court-fee		Date of admission of paper to record	Condition of document	Remarks including date of destruction of paper, if any
				Number of stamps	Value			
1	2	3	4	5	6	7	8	9
	1-	<i>cmh 4722 (W-81)</i>	<i>1-</i>		<i>Rs. 5.00</i>			
	2-	<i>W.P. with Amended and affidavit</i>	<i>11-</i>		<i>102.00</i>			
	3-	<i>Power</i>	<i>1-</i>		<i>5.00</i>			
	4-	<i>Supply affidavit</i>	<i>3-</i>		<i>2.00</i>			
	5-	<i>cmh 5437 (W) 281</i>	<i>6-</i>		<i>7.00</i>			
	6-	<i>Power</i>	<i>1-</i>		<i>5.00</i>			
	7-	<i>cmh 7828 (W) 282 with CA</i>	<i>9-</i>		<i>7.00</i>			
	8-	<i>Carbide affidavit</i>	<i>2-</i>		<i>2.00</i>			
	9-	<i>Power</i>	<i>1-</i>		<i>5.00</i>			
	10-	<i>ack sheet</i>	<i>2-</i>					
	11-	<i>Buck City</i>	<i>1-</i>					

I have this day of 197, examined the record and compared the entries on this sheet with the papers on the record. I have made all necessary corrections and certify that the paper correspond with the general index, that they bear Court-fee stamps of the aggregate value of Rs. that all orders have been carried out, and that the record is complete and in order up to the date of the certificate.

Date

Munsarim.

Clerk.

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

W.P.

No. 2714

of 1981

vs.

Date	Note of progress of proceedings and routine orders	Dated of which case is adjourned
1	2	3
1.6.81	How ill. C.S. 12/81 List on <u>5th</u> June, 1981. C.S. 11. C.S. 1.6.81	
5/6/81	Admit. Issue notice to S. 13. C.S. 11. C.S. 12/81	
1.6.81.	C.A. An-4722 (of 1981) (stay) List along with the W.P.	
5.6.81	C.S. 11. C.S. C.A. may be filed by 6.7.81. P.H. within 10 days. List the appln. for further orders immediately after the expiry of the period for the whole operation of the order dt. 29/30.4.81 shall remain stayed. C.S. 11. C.S. 12/81	
	C.M. An 5437 (of 81) In T.S. Mung In Zaher Hussain Paripatocent In T.S. Mung In Zaher Hussain	SW 1.7.81 on the for the and

6-7-81

21

ORDER SHEET

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

No. _____ of 197

vs. _____

16/11/77 A2/2

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
	<p>person in place of the petitioner. However, he shall be paid his salary for the period until the commencement of a regular disciplinary enquiry. After the commencement of the disciplinary enquiry the petitioner need not be allowed ^{any} the subsistence allowance, vide r. 9. The petitioner shall hand over charge of the post forthwith to his superior officers.</p> <p>27/7/77</p> <p>PROCESS FEE REPORT in W. P. C. M. Appln. No. 4227/1977</p> <p>The Counsel for Petitioner/applicant has not taken steps for arrest of O.P. Nos. 3 within the time allowed under Rules of Court.</p> <p>SUBMITTED KAP 30/9/77</p> <p>4.11.77 J. M. B</p>	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

A-2
3

REGISTRATION No. 823 of 1987.(7)

APPELLANT
APPLICANT

VERSUS

DEFENDANT
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
14/9/88	<p>न्यायालय जहाँ के कारण 2-11-87 की आधार के लिए सूचीबद्ध है। प्रतिकारी अभिवक्ता मौजूद था।</p> <p style="text-align: right;">अग्र 14/5</p> <p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>None appears for the parties. Notice was issued from the office at Allahabad. A stay order operate in favour of the applicant. However, issue notice to the counsel for the parties. List this case for <u>orders on 2-1-90.</u></p> <p>Shri Rakesh Kumar present in the court stated that he never represented respondents independently. His power was filed as junior to the then Standing Counsel who has already elevated to the Bench.</p> <p style="text-align: right;">D.K. J.M.</p> <p>(sns)</p>	<p>OR</p> <p>- This case has been read on 11/7</p> <p>- Case is admitted stay granted No A/R filed Date was fixed for CMT, AM. O/c attached submitted to order</p> <p>h 11/10/87</p> <p>OR</p> <p>notice issued 21/11/87</p> <p>OR</p> <p>Notices were issued on 21/11/87 No undue delay kept cover has been submitted to order</p>
2/11/89	<p><u>Hon' Mr Justice Kamleshwar Nath, V.C.</u> <u>Hon' Mr K. Obayya, A.M.</u></p> <p>The petition is dismissed as not pressed. Detailed orders passed separately on 2/1/90.</p> <p style="text-align: right;">V.C.</p> <p>(sns)</p>	

2400/4/88

17/11

A3
1

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

...

Registration T.A. No. 823 of 1987(T)

Ram Pheran Pathak ... Petitioner

Vs.

Union of India and ors.... Opp. Parties

Hon' Mr Justice Kamleshwar Nath, V.C.

Hon' Mr K. Obayya, A.M.

(By Hon'ble Mr Justice Kamleshwar Nath, V.C.)

This is a writ petition received on transfer from the Hon'ble High Court of Judicature at Allahabad, Sitting at Lucknow, under section 29 of the Administrative Tribunals' Act No.XIII of 1985.

2. Shri V.K. Chaudhary, learned counsel for the opposite parties files an application of the petitioner which says that the petitioner has received the relief, which he had sought for in the petition, and, therefore, the petitioner does not intend to prosecute the case any further. In the circumstances, the petition is dismissed as not pressed.


MEMBER (A)


VICE CHAIRMAN

(sns)

January 2, 1990.

Lucknow.

Group A 15(k)

PM
T

4332

6358

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

SITTING AT LUCKNOW.

2714
WRIT PETITION NO.....OF 1981.

District : Bahraich

Ram Pheran Pathak. ... Petitioner.

Versus.

Union of India and others. ... Opp. parties.

I N D E X

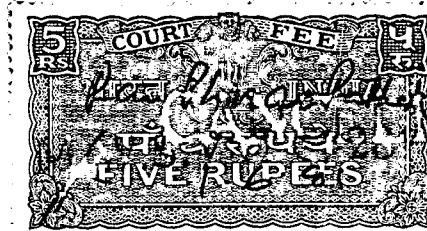
Sl.No.	Description	Page No.
1.	Writ Petition	1 to 6
2.	Annexure No.1. Order of Pt 294	7
3.	Annexure No. 2. Supreme Court Judgment	8-9
4.	Affidavit.	10-11
5.	Power.	12

Lucknow,

Dated : June 1, 1981.

(RAJ KUMAR)
Advocate,

Counsel for the petitioner.



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW.

4722(6)
C.M. APPLICATION NO.....OF 1981.

In re :
27/4
WRIT PETITION NO.....OF 1981.

Ram Pheran Pathak.

....

Petitioner/
Applicant.

VERSUS

Union Of India and other.

....

Opp.parties.

APPLICATION FOR STAY

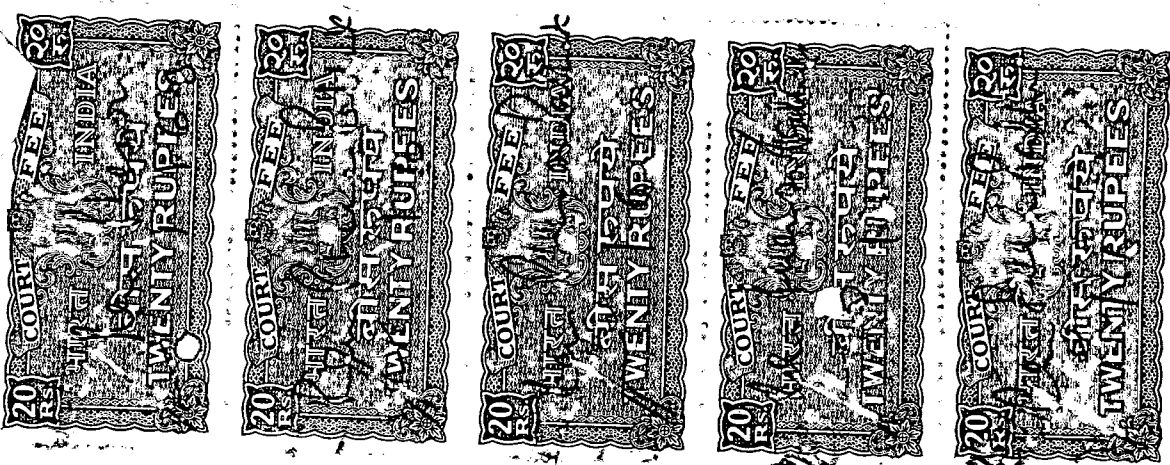
On the grounds and facts mentioned in the accompanying writ petition it is most respectfully prayed that it is most expedient and in the interest of justice that the operation of order dated 29/30.4.81 issued by the Opp.party No. 2, contained in Annexure No. 1 to the abovenoted writ petition, be stayed till the disposal of the writ petition.

Lucknow,

Dated : June 1, 1981.


(Raj Kumar)
Advocate,

Counsel for the applicant.



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW.

WRIT PETITION NO.....OF 1981

District : Bahraich.

Ram Pheran Pathak, son of Sri Ram Avadh,
resident of village and Post Office Kotwa,
Tehsil Bhinga, District Bahraich.

.... Petitioner.

VERSUS

1. Union of India, through Director General,
Post and Telegraph Department, Delhi.
2. Superintendent of Post Offices, Bahraich Division,
at Gonda, District Gonda.
3. R.P. Verma, Dak ~~Muzam~~ Mirikshak (Purvi), Bahraich.

The above named petitioner most humbly
begs to state as under :-

1. That the petitioner was appointed temporarily
in a clear vacancy, on 18.6.1976 as Branch Post
Master at Post Office, Kotwava by the order of
opposite-party No. 2.
2. That the petitioner is fully qualified for
the post and is continuing to the full satisfaction
of his superiors except opp.party No.3.

...2.



2.

3. That as per rules applicable to the Branch Post Masters who were considered to be Extra Departmental Agents, ~~they~~^{they} are to be appointed as Branch Post Masters in their own village of permanent residence.

4. That after the appointment, the petitioner was given one weeks' training which he successfully completed.

5. That the opposite-party No. 3 who is the Inspector, Post Offices on some pretext or the other used to ask for lump sum money from the petitioner which the petitioner could not give because of his limited resources. This ~~was~~^{was} refusal of the petitioner to oblige the opp.party No. 3 created strained relations between them and the opposite-party No. 3 even^{or} went to the extent of threatening the petitioner of dire consequences and ultimate removal from service. ~~of the petitioner.~~^{of the petitioner.}

6. That the opposite-party No. 3, however, influenced the opposite-party No. 2 and succeeded^{e q} in issuance of the impugned order of put off from duty by the opp.party No. 2, dated 29/30.4.1981. A true copy of the order dated 29/30.4.1981 issued by the Opp.party No. 2 is being annexed as Annexure No. 1 to the instant writ petition.

7. That put off from duty is provided under Rule 9 of the Extra Departmental Agents (Conduct & Services) Rules, 1964 which is as follows :-

....3.



ANNEXURE No.1
(Order dt.
29/30.4.81 of
Opp.party No.2)

२१४४७७४१६५

3.

"9. An employee shall be liable to be put off from duty by or under the orders of the appointing authority or any authority to which its subordinate pending enquiry into any complaint or allegation of misconduct against him. During such period, he will not be entitled to any allowance."

8. That their Lordships of the Hon'ble Supreme Court of India held in a full bench decision, reported in All India Services Law Journals, 1977 on page 532, that Extra Departmental Agents of the Postal Department are holder of a civil post under the State and, therefore, they are entitled to the protection of Article 311 of the Constitution of India.

9. That in pursuance of the aforementioned Hon'ble Supreme Court's judgment a communication was issued by the Opposite-party No. 1 to all Heads of Postal and Telecom Circles etc. etc. in which it has been clearly stated that in case of disciplinary action against Extra Departmental Agents, the procedure was given in para 6 of the C.C.S (C.C.A) Rules, 1965 should be followed. A true copy of the communication dated 30.5.1977 is being annexed as Annexure No. 2 to the instant writ petition.

10. That under Rule 9 of the Extra Departmental Agent (Conduct & Services) Rules, 1964, put off from duty is nothing but suspension without any subsistence allowance.



ANNEXURE No.2
(Communication
dt. 30.5.77)

2TH 4177 4164

24/6

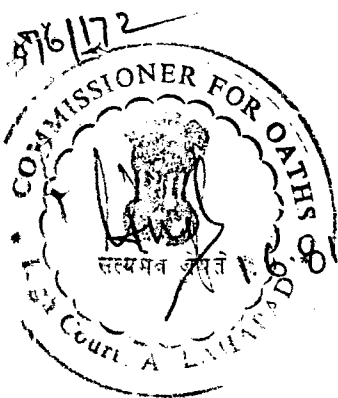
11. That as per the Hon'ble Supreme Court's judgment, the petitioner has been held to be holding of civil post under the State, as such, the petitioner could not be put off from duty like an Agent without any subsistence allowance paid to him during his put off from duty.

12. That under the C.C.S. (CCA) Rules, 1965, there is no such term as ~~xxxx~~ put off from duty but it is termed as suspension which entitles the incumbent to a definite amount of subsistence allowance as, a suspended employee is not out of services and remains employee of the State till the further order of removal, termination or dismissal is passed.

13. That Annexure No. 2 to the instant writ petition clearly provides that in the disciplinary proceedings initiated against the Extra Departmental Agents ~~as per~~ ^{the} appointing authority should adhere to the CCS (CCA) Rules and act in its conformity.

14. That as the very concept of Extra Departmental Agents ^{is} is vanished by virtue of the Hon'ble Supreme Court's judgment, the rules framed thereon shall also have no force as their very foundation ^{has been} ~~is~~ blasted.

15. That the impugned order is absolutely misconceived and without jurisdiction as the Opp.party No. 1 has clearly taken away the powers under the Extra Departmental Agents (Conduct & Service) Rules from the appointing authority and



21/11/2014/10/13

5.

they have been directed to act in accordance with the CCS (CCA) Rules and provisions of Article 311 of the Constitution Of India.

16. That a similar case numbered as Writ Petition No. 1350/78, Girja Shanker Chaubey Vs. Union Of India and others, dealing with the applicability of Extra Departmental Agents (Conduct And Service) Rules, 1964, has been admitted and ~~the~~ a stay order, which is still continuing, has been granted by this Hon'ble court.

17. That the petitioner has still not handed over charge and is holding the same.

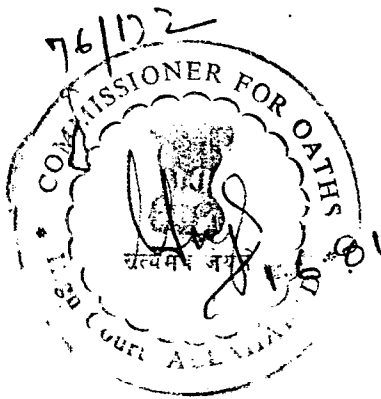
18. That having no other efficacious alternative remedy, the petitioner files the instant writ petition on the following amongst other .

G R O U N D S :

I. Because, the impugned order is absolutely misconceived and without jurisdiction in as much as after the pronouncement of the Hon'ble Supreme Court's judgment dated 22.4.1977, the petitioner has been declared to be holding a civil post under the State as such, he cannot be ordered under Rule 9 of the Extra Departmental Agent (Conduct & Service) Rules, 1964 for put off from duty.

II. Because, as the impugned order does not provide for subsistence allowance, the same is invalid and inoperative.

...6.



III. Because, the impugned order has been passed malafidely and in colourable ~~exercise~~ exercise of power.

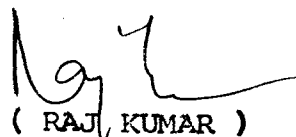
IV. Because, the impugned order incurs total losses of the petitioner's emoluments, as such, it can be passed only after given him an opportunity to show cause.

V. Because, the impugned order is punitive in nature as such is violative of Art. 311 of the Constitution of India.

WHEREFORE, it is most respectfully prayed that it is most expedient and in the interest of justice that the impugned order dated 29/30.4.81 passed by the opposite-party No. 2, contained in Annexure No. 12 to the instant writ petition, by issuing a writ, direction or order in the nature of certiorary, be quashed and the opposite-parties be directed not to give effect to the impugned order and salary of the petitioner be given forthwith; and the costs of the writ petition be awarded to the petitioner.

Lucknow,

Dated : June 1, 1981.


(RAJ KUMAR)

Advocate,

Counsel for the petitioner.

(7)
84/7

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALD.,
SITTING AT LUCKNOW.

WRIT PETITION NO.....OF 1981.

Ram Pheran Pathak. Petitioner.
Versus.
Union Of India and others. Opp. parties.

Annexure No. 1

Indian Posts and Telegraphs Department
OFFICE OF THE SUPERINTENDENT OF POST OFFICES,
BAHRAICH DIVISION AT GONDA-271001

No. H/Kotwa,

Dated : at Gonda, the
29.4.81.
30

Under provision of Rule 9 of the EDAs Conduct and Services Rules, 1964, Sri Ram Pheran Pathak EDBPM Kotwa (Bahraich) is hereby ordered to be put off duty with immediate effect.

Charge-report should be submitted.

Sd/- Supdt. of Post Office
Bahraich Division
at Gonda.271001

Copy to :-

1. Sri Ram Pheran Pathak EDBPM Kotwa (Bahraich)

TRUE COPY

Manral
(Godhan Singh Manral)
OATH COMMISSIONER
High Court Allahabad.
Lucknow Bench.
S, No.....76/172.....
Date.....1.6.81.....



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW.

WRIT PETITION NO.....OF 1981.

Ram Pheran Pathak. Petitioner.

Vs.

Union Of India and others. ... Opp.parties.

Annexure No.2

Copy of commn. No. 151/4/77-DeceII dated at
N. Delhi the 18th/23rd May, 1977 from the o/o the
D.C. P & T New Delhi to all heads of Postal and
telecom. Circles etc. etc. and forwarded to this
office under PMG endst. No. STA/A-67/73. 74/5,
dt. 30.5.77.

Sub.: Supreme Court judgment dated 22.4.77 declaring
EAs as holder of civil posts- procedure proces-
sing of disciplinary cases.

Sir,

I am directed to say that the department had
gone in appeal to the Supreme court against the
judgment of certain High Courts declaring EDAs as
holders of civil posts under the Govt. The Supreme
court have in their judgment delivered on 22.4.77
ruled that the ED are holders of civil posts under the
Govt. As such they are entitled to the safeguards
available to Govt. servants under the provisions of
Article 311 (2) of the constitution. A copy of the
supreme court judgment is being forwarded to you
separately for reference and guidance. The full
implication of the judgment of the Supreme Court is

...2.



2.

84/11

being examined in the Directorate in all its aspects. Necessary action will be taken to amend the relevant provisions of the EDA (Conduct and Service) Rules, 1964 in due course after consultations with the Ministry of Law and or the department of Personnel. Pending the issue of the revised rules, all cases of removal/dismissal of the ED employees, in terms of Rule 8 of the EDA (Conduct and ~~Service~~ Service) Rules, 1964 should be dealt with so as to conform to provisions of Article 311(2) of the Constitution. The procedure as defined in Part VI of the CCS (CCA) Rules, 1965 should be followed while proceeding the disciplinary cases of the employees.

5. All the concerned divisional and other authorities may be suitably instructed in the matter. The receipt of this letter may be acknowledged to the undersigned.

No. A-Rlg-3/Ch II dated at Gonda 271001, the 1.6.77.

Copy to the all PMs, LSG, SPMs, IPCs in the division for information. They will please acknowledge receipt of this letter immediately.

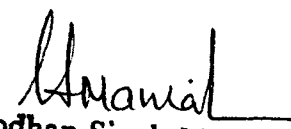
21-32 All the dealing clerks in divisional office, Gonda.

33 & 34 : ASPCs and CI in DO Gonda

35 : Spare.

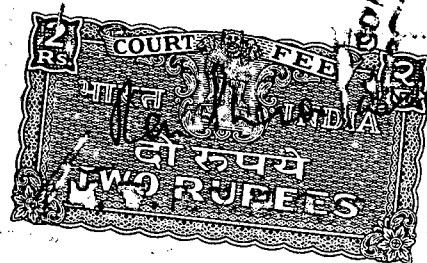
Sd/- Illegible,
Supdt. of Post Offices,
Gonda Dn.

True copy


(Godhan Singh Manral),
OATH COMMISSIONER
High Court Allahabad,
Lucknow Bench
No. 76/172
1.6.81



रिजिस्टर्ड 4103



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW.

AFFIDAVIT
IN SUPPORT OF :

WRIT PETITION NO.....OF 1981.

Ram Pheran Pathak. Petitioner.

Vs.

Union Of India and others. ... Opp.parties.

Affidavit.

I, Ram Pheran Pathak, aged about 40 years,
son of Sri Ram Avadh Pathak, resident of village
and post office Kotwa, Tehsil Bhinga, District
Bahraich, do hereby solemnly affirm and state on
oath as under :

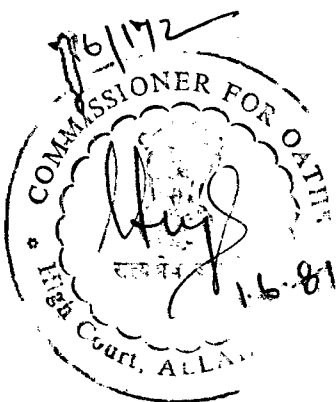
1. That the deponent is the petitioner in
the above noted writ petition and as such is well
conversant with the facts deposed therein.

2. That the contents of paras from 1 to 17
are true to my own knowledge and those of paras 18 to 19
are based on legal advice which is believed to be
true.

Lucknow,

Dated : June 1, 1981.

Deponent.



2.

Verification.

I, the above named deponent, do hereby verify that the contents of this affidavit, para 1 and 2, are true to my own knowledge. No part of it is false and nothing material has been concealed, so help me God.

Lucknow,

Dated : June 1, 1981.

Deponent.Identification

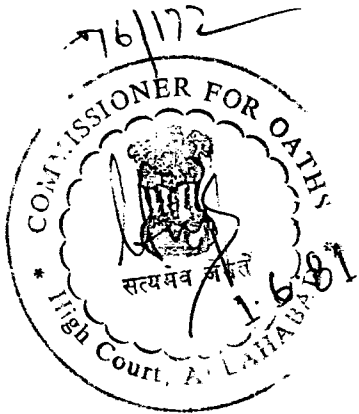
I identify the deponent who has signed before me.

Advocate

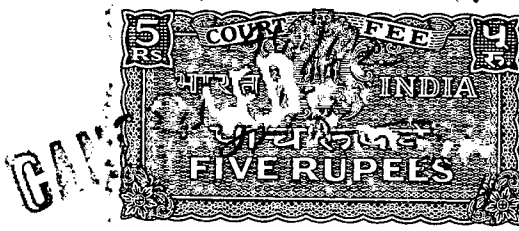
Solemnly affirmed before me on 1.6.81 at 9.30 a.m./p.m. by Sri Ram Pheran Pathak, who is identified by Sri Raj Kumar, Advocate, High Court, Lucknow Bench.

I am satisfied that the deponent who understands the contents of this affidavit, which have been read out and explained by me.

Manral
(Godhan Singh Manral,
OATH COMMISSIONER
High Court Allahabad.
Lucknow Bench.
S. No. 76/172
Date. 1.6.81



In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench Lucknow.



C.M. Appln. No. 7020 (w) of 1982.n

Union of India and others. -- Applicants.

Inre:

Writ petition No. 2714 of 1981:

Ram Pheran Pathak. --- -- Petitioner.

Versus

Union of India and others. --- Opp. Parties.

Application for condonation
of delay for filing C.A.

The applicants abovenamed beg to state as under:-

1. That the counter affidavit could not be filed earlier and approval on the draft counter affidavit had to be taken from the Ministry of Law, Government of India, which took some time.

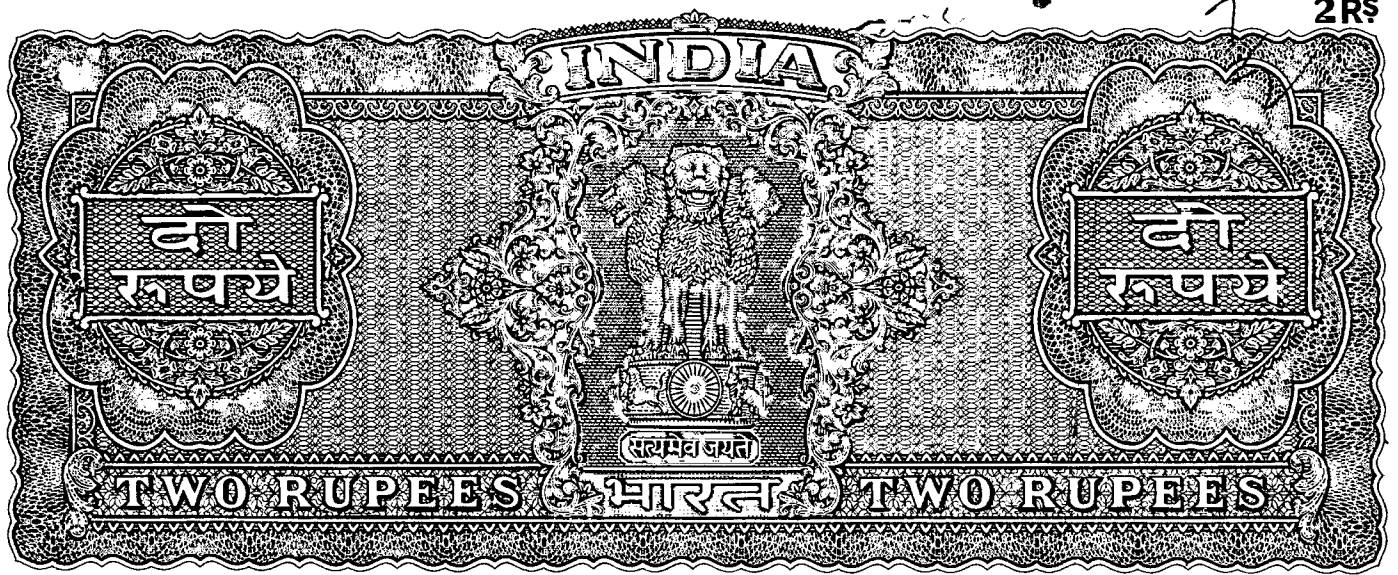
2. That counter affidavit is now ready and is being filed herewith.

3. That delay in filing the counter affidavit is genuine and bonafide and is liable to be ~~set~~ condoned.

Wherefore, it is respectfully prayed that delay in filing the counter affidavit be condoned, the same be accepted and brought on the record.

Lucknow Dated
Aug. 1982.

Bijendra Kumar
Counsel for the applicants.



On the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow. *Pb*
✓

W.P.No 2714 of 1981

Ram Pharan Pathak

----- Petitioner

v3

Union of India & ors

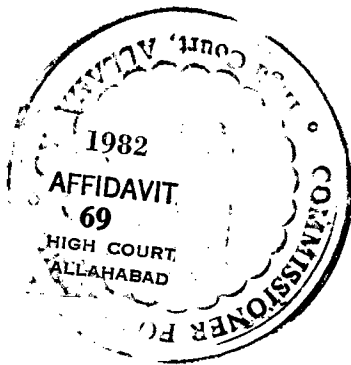
----- App-Parties.

Affidavit.



7/3

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow.



Writ Petition No. 2714 of 1981.

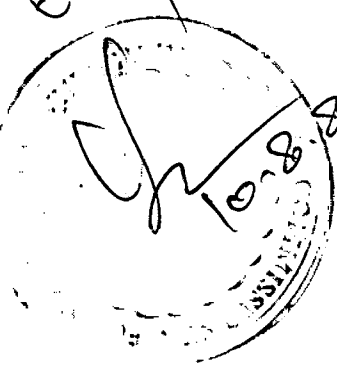
Ram Pheran Pathak. --- -- Petitioner.

Versus

Union of India and others. -- -- Opp. Parties.

Counter Affidavit on behalf of
opposite parties 1 and 2.

I, Ram Prasad aged about 48 years, son of Shri
Shreedass Ram Superintendent of ~~Post~~ Post
Offices, Bahraich, do hereby solemnly affirm and
state as under:-

69/296

1. That the deponent is Superintendent of Post
Office, Bahraich and is acquainted with the facts
deposed to hereunder:-

2. That paragraph 1 of the writ petition is not
admitted as framed. The petitioner was only appointed
provisionally by order dated 18.6.1976. In the order
of appointment it was clearly mentioned that his
services shall be governed by the Post & Telegraph
Extra Departmental Agents (Conduct & Service) Rules,
1964 as amended from time to time, a true copy of
the order is annexed herewith as Annexure A-1 to the
~~counter affidavit.~~ application for vacation of stay

2.

86
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3. That paragraph 2 of the writ petition is denied that the petitioner is continuing to the full satisfaction of his superior officers except opposite party no.3. As a matter of fact, complaints were received by the deponent against the petitioner. The complaints were enquired into by the Inspector of Post Offices East in whose jurisdiction the Kotwa Post Office fell and it had come to light that there have been serious irregularities and illegalities in the conduct of the petitioner while working as Extra Departmental branch post master. It is also denied that the petitioner was working as extra departmental branch Post Master on the day when he filed the writ petition. Alternative arrangement for giving postal facilities to the public of that area had been made with effect from 19.5.81 and since thereafter the petitioner has not been working.

4. That paragraph 3 of the writ petition is admitted to this extent that Branch Post Masters are also appointed in the village of their permanent residence. It may further be stated that these Branch Postmasters are only part time employees and their conditions of service are governed by the E.D.A (Conduct & Service) Rules, 1964.

5. That paragraph 4 of the writ petition is not denied. However, deponent is advised to state that successful completion of training did not give licence to the petitioner to commit irregularities and illegalities in conduct of his official duties as Extra Departmental Branch Post master.

6. That paragraph 5 of the writ petition is denied

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as incorrect as there is nothing on the record to substantiate the allegation made in the paragraph under reply. However, a separate affidavit will also be filed by opposite party no.3.

7. That paragraph 6 of the writ petition is denied as absolutely false and incorrect. There is no question of the deponent being influenced by opposite party no.3 and is subordinate of the deponent. The order putting off duty has been issued by the deponent or his own as there had been complaints against the petitioner which had been enquired into by the opposite party no.3 after he had made inspection as well.

8. That paragraph 7 of the writ petition needs no reply. The rule can be perused from the Rules themselves.

9. That para 8 of the writ petition is not denied.

10. That the contents of para 9 of the writ petition are not denied. (However, the deponent is advised to state that annexure 2 only provides for the protection of the employees in conformity with Article 311(2) of the Constitution of India and it also provides that the procedure in conformity with Chapter 6 of the C.C.S.(C.C.A.) Rules, 1965 should be followed in the matters of disciplinary proceedings.)

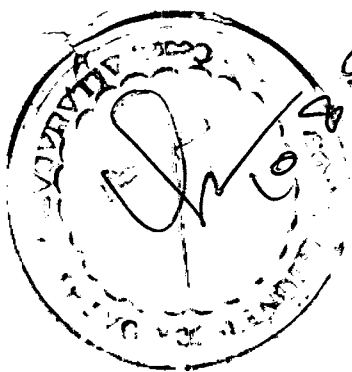
11. That para 10 of the writ petition is not admitted and there is no provision for suspension under the service rules of the Extra Departmental.

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Branch Postmasters. Under rule 9 they can be put off duty which ~~it~~ has different consequences.

12. That para 11 of the writ petition is denied as incorrect. It is, however, not denied that it has been held by the Hon'ble Supreme Court that Extra Departmental Agents (Branch Postmasters) hold a civil post but they have only been extended to safeguard as available to the holders of the civil post under Article 311(2) of the Constitution of India. The deponent is advised to state that the judgment of the Supreme Court does not do away with the provisions of rule 9 of the E.D.As. (Conduct & Service) Rules, 1964. A circular was issued by the Director General, Post & Telegraphs the relevant extract from which is being quoted below:-

" Service conditions of E.D.As. are regulated by the E.D.As. (Conduct & Service) Rules, 1964. Rule 9 of these Rules provide that pending enquiry into complaints or allegations of misconduct the E.D.As. may be put off duty and during the ~~parties~~ period he is put off duty, he shall not be entitled to any allowance - - - - - Rule 9 still remains - - - - - having regard to the fact that E.D.As. being part time employees cannot be equated with the regular employees of the department in the matter of grant of service benefits - - - - -"



13. That in reply to para 12 of the writ petition the deponent is advised to state that the provisions of C.C.S. (C.C.A.) Rules 1965 are not applicable to the petitioner. Only this has been directed that in the matter of disciplinary proceedings procedure

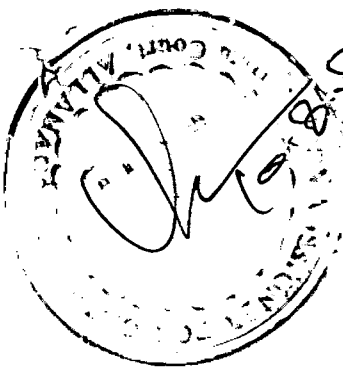
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provided in Chapter 6 of the C.C.S. (CCA Rules should be followed. It only relates to the procedure which has to be followed in the disciplinary matters and nothing beyond that. In this connection reply submitted in para 12 above may also be perused.

14. That para 13 of the writ petition is denied as incorrect. As ~~has~~ been stated in the preceeding paragraph, the ~~CCA~~ (CCA) Rules do not apply as such. Only ~~as~~ far as procedure is concerned, this has to be followed in the disciplinary proceedings which is contained in Chapter 6 of the CCS (CCA) Rules, 1965.

15. That paragraph 14 of the writ petition is denied as incorrect. The Extra departmental Agents (Branch Postmasters are governed by the E.D.As. (Conduct and Service) Rules, 1964. Neither these rules nor any particular provision of the same has been struck down by the Supreme Court in the judgment quoted in the earlier paragraph of the writ petition.



16. That the contents of paragraph 15 of the writ petition are denied as incorrect. The E.D.As. (Conduct and Service) Rules are still in force and powers thereunder have ~~not~~ been taken away by the opposite party no. 1 ~~as~~ alleged. The direction to conform with chapter 6 of the CCS (CCA) Rules in matters of disciplinary proceedings does not mean that E.D.As. (Conduct & Service) Rules have been withdrawn.

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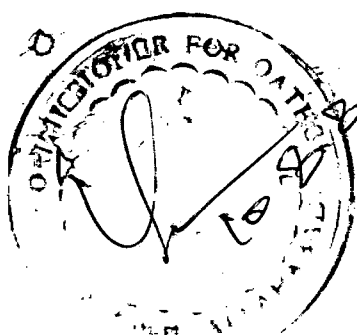
17. That the contents of para 16 of the writ petition are not admitted. It is not known as to what are these points involved in the writ petition quoted in the paragraph under reply each case has to be decided

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on its own facts and merits.

18. That in reply to para 17 of the writ petition it is stated that since the petitioner had been avoiding to hand over the charge, alternative arrangement had been made and Male line overseer has been issued the seal/stamps of the branch post office and he is carrying on his function as such for the area covered in the Branch post office, Kotwa. With effect from May 19, 1981 the petitioner has ceased to work and is no more working as Branch post master. The petitioner is illegally holding the article in his custody to show that he is still holding the charge.

19. That the contents of para 18 of the writ petition are denied as incorrect. Section 10(2) of the P.D.As. (Conduct and Service) Rules provides for an appeal against an order putting him off duty. The petitioner has not chosen to approach the appropriate authority in appeal, hence the present writ petition is premature and is not maintainable as the alternative remedy available to the petitioner has not been availed of and the petition should be dismissed with costs.



Lucknow Dated
10 August 1982.

Deponent.


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Verification.

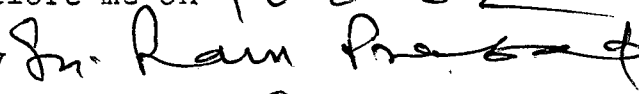

I, the abovenamed deponent, do hereby verify that the contents of para 1 of this counter affidavit are true to my own knowledge, those of paras 1, 6, 8, 11, 12, 15, 16 are true to my information derived from the records and those of paras 5, 10, 13, 14, 17 & 19 are based on legal advice. No part of it is false and nothing material has been concealed, so help me God.

Lucknow Dated
Aug. 10, 1982.

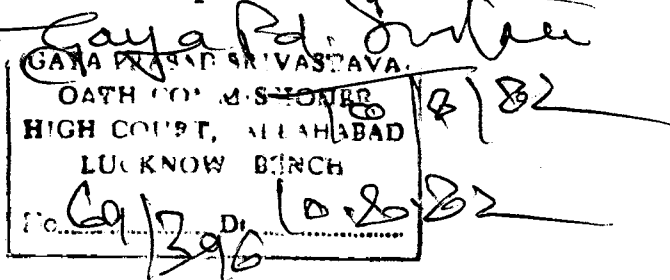

Deponent.

I identify the deponent who has signed before me.


Clerk of Sri Brijesh Kumar.

Solemnly affirmed before me on 10.8.82 at 8.30 a.m./p.m. by  the deponent who is identified by  clerk of Sri Brijesh Kumar, Advocate.

I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.



To

The Joint Registrar

plc
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Hon'ble High Court of Judicature at

Allahabad Lucknow Bench

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9/12/81.

W.P.N. 2714 of 1981

77-9-12-81

Ram Pheroo Pathak - - - - - Petitioner

vs

Union of Dist. & others - - - - - Opp. Parties

In the above stated case I am filing Counter

Affidavit on behalf of op. N. 3 only (Annex Attached)
with Counter Affidavit

Date of Filing

9-12-81

Pravesh Chandra

Counsel for the Opp. Parties

41
5/11/81

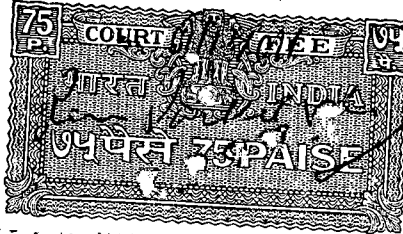
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pg 8/1

In the Hon'ble High Court of Judicature at Allahabad,

Lucknow Bench, Lucknow.



1981
AFFIDAVIT
41.
HIGH COURT
ALLAHABAD



Writ Petition No. 2714 of 1981.

Ram Pheran Pathak. --- -- Petitioner.

Versus

Union of India and others. -- Opp. Parties.

Counter Affidavit on behalf
of opposite party no. 3.

I, Ram Prakat Verma, aged about 36 years,
son of Sri Ajodhya Prasad Verma, Inspector Post
Offices, Bahraich East Sub Division, Bahraich, do
hereby solemnly affirm and state as under:-

1. That the deponent is Inspector of Post
Offices, Bahraich East Sub Division, Bahraich and is
fully conversant with the facts deposed to hereunder.

2. That the contents of paragraph ⁵⁴⁶ 12 of the
writ petition are denied that the deponent wanted
money from the petitioner. The deponent never
demanded any money, ^{nothing} ~~what~~ to say in lump sum, from the
petitioner. The deponent never threatened the petitioner
with dire consequences ^{nor did he influence the OP No 2}
^{as alleged.}

Lucknow Dated
July 6, 1981.

Dec 8, 2

Deponent.

2.

I, the abovenamed deponent, do hereby verify that the contents of paragraphs 1, 2 ~~and 3~~ of this counter affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed, so help me God.

Lucknow Dated

July 6, 1981.
Dec 8

Deponent. 01/12/01

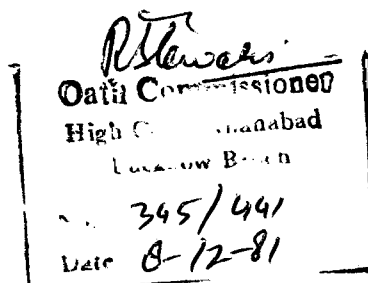
I identify the deponent who has signed before me.

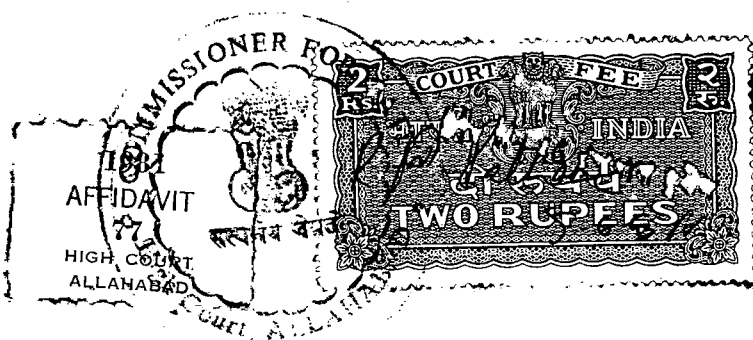
Vishnu Deyal C/o
L. Rajesh Kumar
Advocate.

Solemnly affirmed before me on 8-12-81
at 9 a.m./p.m. by Sri Ram Paltat Varma

the deponent who is identified by Sri Vishnu Deyal
Clerk of Sri Rajesh Kumar
Advocate, High Court, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me.





In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Supplementary Affidavit
~~Writ Petition No. 27/14 of 1981~~

In re:

Writ Petition No. 27/14 of 1981

Ram Pheran Pathak Petitioner

Vs.

Union of India & others. Opp. Parties.

I, Ram Pheran Pathak, aged about 40 years,
s/o Sri Ram Avadh Pathak r/o village and Post Office
Kotwa, Tehsil Bhinga, District Bahraich, do hereby solemnly
affirm on oath as under :-

1. That the deponent had filed the aforementioned
writ petition on 1.6.81 and the same was heard at length,
and certain clarifications were required to be made before
the stay application could be disposed of which has been
fixed for 5.6.81 for disposal.

2. That the impugned order contained in Annexure-1
to the writ petition though bears the date 29/30-4-81, was
served on 16-5-81 upon the deponent who continued to work
till 16-5-81.

3. That the deponent contacted his counsel on
18-5-81 as 17-5-81 and 18-5-81 were non working days.



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4. That the counsel for the deponent asked for certain papers and a copy of E.D.A. (Service & Conduct) Rules, 1964 which could be made available to the counsel for the deponent earliest by 31st May, 1981 and the petition was filed on 1.6.81.

5. That the deponent had not yet given his charge and neither any other Branch Post Master has been appointed at Kotwa nor the Branch Post Office has been closed. One Sri Harish Chandra Shukla, Line Overseer, Shinga, is functioning as Branch Post Master Incharge at Kotwa Post Office.

6. That the balance of convenience is clearly in favour of the deponent and he has been put off from duty on account of malafide intention of the authorities concerned without any charge against the deponent, that is why he has not yet been served with a charge sheet and is quite likely that he may not be served with the same in near future.

7. That if the impugned order contained in Annexure-1 to the writ petition is not stayed the deponent shall be subjected to irreparable loss.



Lucknow: Dated:
June 5, 1981

21/4/81
Deponent.

Verification

I, the deponent above named, do hereby verify that the contents of paras 1 to 5 & 7 are true to my personal knowledge and those of paras 6 are believed to be true. No part of it is false and nothing material has been concealed, so help me God.

रामधर १५६८५

Lucknow: Dated:
June 5, 1981

Deponent t.

I identify the deponent who has signed before me.

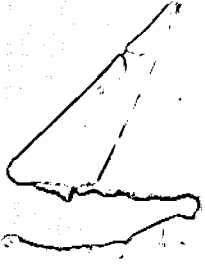
Advocate



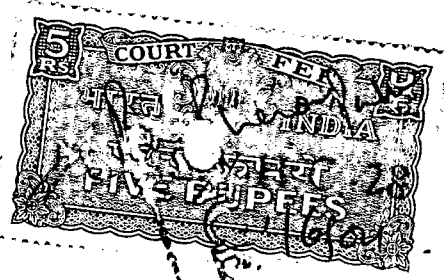
Solemnly affirmed before me on 5.6.81st at 10.45 a.m/p.m. by Sri Ram Pheran Pathak, the deponent, who is identified by Sri Raj Kumar, Advocate High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained by me to him.

(Godhan Singh Manral)
OATH COMMISSIONER
High Court Allahabad.
Lucknow Bench.
S. No. 77/172
Date 5.6.81



88/1



1st 25/1/6
महोदय

व अदालत श्रीमान

वादी (मुद्दाई)

प्रतिवादी (मुद्दाअलेह)

का वकालतनामा

In The Hon'ble High Court of Judicature At Allahabad
Lucknow Bench Lucknow

Ram Pheran Pāthak

वादी (मुद्दाई)

बनाम

Union of India and others

प्रतिवादी (मुद्दाअलेह)

नं० मुकद्दमा सन् १६ पेशी की ता० १६ ई०
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Ray Kumar
एडवोकेट

महोदय
वकील

नाम अदालत	नाम मुकद्दमा	नाम फरीकैन
.....

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted
[Signature]

हस्ताक्षर रामफेरन पाठक

साक्षी (गवाह) साक्षी (गवाह)

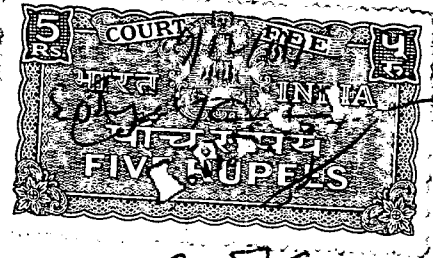
दिनांक महीना १६ ई०

व अदालत श्रीमान्
बादी [मुद्दई]

In The Honble Magistrate's Court
at Allahabad
महोदय

वकालतनामा

OPN. 3 प्रतिवादी [मुद्दाअलेह]



Ram Phuran Palhak

बनाम

10/12/01
वादी (मुद्दई)
9/12/01

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Union of India

प्रतिवादी (मुद्दाअलेह)

नं० मुकद्दमा 27/4 सन् १९०१ पेशी की ता० ११/१२/ १९०१ ई०

ऊपर लिखे मुकदमे में अपनी ओर से श्री बृजेश कुमार,
राकेश कुमार

२८९/३१५ मोतीनगर, लखनऊ

एडवोकेट

महोदय को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखें देता हूं इस मुकदमें में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेशी या जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिंगरी जारी करावें और रुपया वसूल करें या मुनहामा या इकबाल दावा तथा अगील व निगरानी हमारी ओर से दाखिल करें और तसदीक या मुकद्दमा उठावें या कोई रुपया जमा करें हमारी या बिपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपनी या हमारी हस्ताक्षर युक्त दस्तखती रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी इस लिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे । ई०

नाम अदालत	नाम मुकद्दमा	नाम फरीकस

Accepted
By
हस्ताक्षर
(गवाह)

हस्ताक्षर
(Sd. R.P. Varma)
साक्षी (गवाह) OPN. 3

दिनांक ११-१२-१९०१

स्वीकृत

(बृजेश कुमार, राकेश कुमार)

एडवोकेट

(7/4)

In the Hon'ble High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Writ Petition No. 2714 of 1981.

Ram Pheran Pathak --- --- Petitioner.

Versus.

Union of India and others. Opposite Parties.

Counter Affidavit on behalf
of opposite party no. 3.

I, Ram Praket Verma, aged about 36 years,
son of Sri Ajodhya Prasad Verma, Inspector Post
Officer, Bahraich East Sub Division, Bahraich,
do hereby solemnly affirm and state as under:-

1. That the deponent is Inspector of
Post Officer, Bahraich East Sub Division, Bahraich
and is fully conversant with the facts deposed
to hereunder.

2. That the contents of paragraphs
5 to 6 of the Writ Petition are denied that the
deponent wanted money from the petitioner. The
deponent never demanded any money, nothing to
say in lump sum, from the petitioner. The
deponent never threatened the petitioner with
dire consequences nor did he influence the
opposite party no. 2 as alleged.

Lucknow: Dated
December, 9

Deponent.